

REMARKS

Claims 4-10 were allowed in the Office Action mailed September 15, 2005.

Claims 11-25 were rejected under 35 U.S.C. §112, ¶1 for claiming subject matter that was allegedly not described in the specification. In particular, the Examiner contends that independent claims 11, 15 and 20 recited at least three legs, while the specification disclosed only two legs. The Applicant respectfully disagrees.

Even though the specification does not explicitly recite four legs, the figures clearly show a rectangularly-shaped platform having four corners with a wire support under each corner of the platform. Since every rectangle must have four corners and since each of the wire-formed legs (204 and 206) are shown to be made up of two substantially vertical sections, each of which is directly below one of the platform's four corners, it stands to reason that there *are* four supporting devices, a.k.a. legs that are disclosed in the figures. The application inherently discloses four supports, i.e., legs, one such leg under each corner. As the Examiner also must know, it would be difficult to keep a platform horizontal using only two support points.

Despite the Examiner's improper rejection of claims 11-25 under 35 U.S.C. §112, ¶1, the Applicant has amended the claims as set forth above solely to expedite issuance of the claims. As claims 11 and 15 have been amended, they no longer expressly recite three/four legs but now recite "at least two" legs. Claim 20 simply recites "wire legs" and makes no claim as to their number. The rejection of these claims under 35 U.S.C. §112, ¶1 is traversed.

Claims 1-3 were rejected under 35 U.S.C. §112, ¶2 because claim 1 recited first and second "leg mechanisms" but did not affirmatively recite "first and second legs." Claim 1 has been amended to delete the word "mechanism," traversing the rejection

under 35 U.S.C. §112, ¶2 by providing antecedent basis for the term “first and second legs” that appears in the whereby clause of claim 1. Claim 3 has also been amended to delete the word “mechanism.”

Claims 11-25 were rejected under 35 U.S.C. §112, ¶2. The Examiner contends that these claims were ambiguous because the claims defined the claimed structure as a function of an unclaimed article, namely, a container supported by the platform. Claim 11 has been amended to recite that the platform’s sidewalls are “adapted to hold a container” by exerting a force on the container. Claim 15 recites that the platform’s side walls are “arranged and adapted to match an exterior dimension of a container” Claim 20 has been amended to recite that the platform’s side walls are “adapted to receive a container between them.”

Since the claims no longer define the claimed structure by reference to an unclaimed article but instead by the use or function of the claimed article, the Examiner’s rejection of the claims 11-25 under 35 U.S.C. §112, ¶2 is believed to be traversed.

Claims 11-25 were also rejected under 35 U.S.C. §102(a) as being anticipated by U.S. Patent No. 4,787,585 to Tedham et al. The Examiner contends that the two spacers 20 and 22 disclosed in Tedham et al. correspond to the platform recited in each of the claims 11-25. The Examiner’s reading of Tedham et al. as showing a rectangular platform embodied by spacers 20 and 22 is not only a legally defective basis on which to reject the claims under §102, the Examiner’s reading also tests one’s credulity.


By its very definition, a rectangle has *four* sides. The spacers 20 and 22 could not possibly form more than *two* sides. By reading the two spacers 20 and 22 as satisfying

the claimed platform limitation, the Examiner inherently contends that empty space shown between spacers 20 and 22 is filled with a solid.

It is well known that to reject a claim under 35 U.S.C. §102 requires *every* limitation be found in a single reference, either inherently or explicitly. There is simply no way for the Examiner to construe two spacers 20 and 22 of Tedham et al. to be a rectangular platform. Reconsideration and allowance of the claims is respectfully requested.

Respectfully submitted,

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